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Vermont Fair Housing News

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FAIR HOUSING LAW, ZONING AND MUNICIPAL GOVERNMENT

Can a town government be found liable for discrimination under the Fair Housing Act? Most charges of housing discrimination are filed against housing providers: landlords, realtors, and others directly involved in offering housing to the public. But the federal and Vermont Fair Housing Acts make it unlawful for "any person" to "make unavailable or deny" a dwelling to another person based on a discriminatory motive. In some cases, town governments and municipal officials take actions that may directly or indirectly impede a person from gaining access to a dwelling. In those cases, the local government or its officers may be found to have committed a discriminatory act under the fair housing laws.

Group Homes

The great majority of fair housing cases filed in court against municipal governments arise when town or city governments refuse to allow a group home to be built or established. Group homes come in several varieties. The home may be an assisted living situation for persons with physical, psychiatric or developmental disabilities, who want to live in a community setting, but are not able to maintain a residence on their own without assistance. The home may be a transitional housing situation for persons with addiction disorders, or who are transitioning back into the community from incarceration. Under the fair housing laws, a municipality may not obstruct the establishment of a group home, if the residents of that home are members of a protected class under the law. Thus, if the home is a residence for persons with disabilities, their status is protected and the home may generally not be barred. Similarly, persons who are recovering from addiction disorders are also often classified as disabled under the anti-discrimination laws, and such homes are also

NEW HAMPSHIRE CASE FINDS HOUSING VIOLATION

In February 2005, the Strafford County, New Hampshire Superior Court ruled in the case *Great Bridge Properties, LLC v. Town of Ossipee*. The Court determined that the Town of Ossipee had violated New Hampshire law by denying a zoning variance for the construction of a multifamily dwelling, based on principles of equal opportunity in housing. The plaintiff, Great Bridge Properties, is a company that develops multifamily affordable housing projects. The company had proposed to build a development of six four-unit affordable apartments on a nine-acre lot. The town's zoning ordinance restricted all multifamily housing projects to four or fewer units per structure on any given lot, and allowed only one principal structure per lot. The company requested a variance, and was denied. The developer argued to the court that the town's zoning requirements made it virtually impossible to construct affordable housing in the town, because the cost-per-unit would exceed affordable housing standards.

Great Bridge initially filed both a complaint under fair housing laws and a complaint that the town's zoning ordinance was unlawful under New Hampshire zoning requirements that zoning laws further the public good. Great Bridge later withdrew the official fair housing portion of the complaint. In reviewing the case, the Court found that the town's zoning ordinances did not promote the general welfare of the town, and therefore were unlawful uses of zoning. Specifically, the Court ruled that by effectively excluding the development of affordable multifamily dwellings, the town's zoning regulations did not provide benefit to the overall population. The judge stated a firm belief that the zoning regulations were a conscious effort by the town to exclude low-income families, and that the town must shoulder its fair share of housing for low-income residents in the region. The Court

protected. (Please note, though, that current use of illegal drugs is not protected.)

Under Vermont's law that enables local zoning regulations, "a residential care home or group home to be operated under state licensing or registration, serving not more than eight persons who have a handicap or disability . . . shall be considered by right to constitute a permitted single-family residential use of property, except that no such home shall be so considered if it is located within 1000 feet of another existing or permitted such home" (24 V.S.A. §4412). Thus, beyond fair housing implications, under Vermont law a group home for persons with disabilities must be considered in the same light as a single-family home for zoning purposes, as long as there are not two such homes located within 1000 feet of each other.

Exclusionary Zoning

Another area of increasing concern is the concept of "exclusionary zoning," in which a municipality passes zoning regulations that, on their surface, appear to be non-discriminatory, but have the effect of preventing or limiting persons in protected categories from moving into that community. For example, if a town zones virtually its entire residential area so that only single-family homes may be built on that land, no multi-family dwellings such as apartments and condominiums may be built. Such a restriction means that only persons who can afford to build or purchase a single-family home may live in that community. As a result, virtually all low-income persons are excluded from that town. Such a restriction would almost always exclude from the town persons who receive public assistance, one of the protected categories under Vermont law. The restriction would also have a disproportionate impact on many other protected categories, whose members tend to have lower incomes: members of racial and ethnic minorities, immigrant communities, and single mothers, to name the more prominent examples. Similar effects may result from zoning regulations that require a large minimum lot size, for example five acres, or long setback requirements, that tend to inflate the cost of building a home, and exclude low-income and multi-family types of dwellings.

The law has begun to recognize the discriminatory impact of exclusionary zoning. The Vermont municipal regulations include language to encourage inclusionary zoning in municipal zoning ordinances, and require that towns not entirely exclude multifamily dwellings and mobile homes from town planning. (See 24 V.S.A. §4414

(7).) A New Hampshire court in 2005 found that the Town of Ossipee had violated state law by blocking the construction of a multifamily housing project in the town (See related article). This case may open the door for similar litigation, if a town's zoning regulations make it virtually impossible for low-income families to purchase or rent a dwelling in that town.

Failure to Make Reasonable Accommodations

As with housing providers, a municipal government may be required to provide a reasonable accommodation for a person with a disability, or to allow reasonable modifications to a dwelling to allow a person with a disability full access to the dwelling. This latter situation is the one most likely to arise in the context of a fair housing claim. A homeowner who, for example, becomes physically impaired and begins to use a wheelchair may need to install an exterior ramp to make the home accessible. Such a ramp may violate local ordinances regarding setbacks or other building code requirements. The homeowner may then ask, as a reasonable accommodation, a variance to permit the building of the ramp. Unless the town can show evidence that granting the variance would place an undue burden on the town, then the town is probably required to grant the variance under fair housing law. Similar situations would arise in the granting of permits for other interior or exterior modifications, such as renovating the first floor of a dwelling to add a sleeping area and accessible bathroom, when a resident can no longer climb stairs to reach an upstairs bathroom.

It should also be noted that, besides being required to provide reasonable accommodations under the fair housing laws, municipalities are covered under Vermont fair public accommodations law and the federal Americans with Disabilities Act. These laws require that municipalities make reasonable accommodations in the provision of services to the disabled, such as providing written materials in alternate formats. The law also requires municipalities to take readily achievable steps to ensure that persons with disabilities have access to town offices and services, and in particular to have access to voting locations and other essential services.

Discriminatory Statements

One of the central provisions of both Vermont and Federal fair housing law prohibits any person from making,



UNIVERSAL DESIGN—MAKING HOUSING ACCESSIBLE TO ALL

In Spring 2006 the Vermont Center for Independent Living sponsored a conference on the principles of Universal Design in the design and construction of housing and other facilities. Universal Design, according to materials distributed at the conference, is: "The design of products and environments to be usable by all people, to the greatest extent possible, without adaptation or specialized design." The idea of universal design is simple but powerful: that all housing and other environments be designed so that persons with disabilities can use them with equal facility to all other people. By designing homes without architectural and design barriers, all persons will be able to have equal access. Universal design applies to architectural space, as well as to appliances, controls, and other items used within the space, or used to control the space, such as thermostats, door handles, knobs, etc. This principle is increasingly important, as the population gets older. A person who owns a home built on the principles of universal design will be able to live in that home, even if in later years that person acquires a disabling condition. Family members and friends with disabilities may also visit without special adaptations. Similarly, houses built on the principles of universal design can be marketed equally to persons with and without disabilities, without worrying whether the home can be modified to adapt to the needs of a disabled buyer. In short, universal design is smart design.

There are seven basic principles of universal design, as detailed in the materials presented at the conference. The principles apply to living environments, especially including appliances and other devices that are designed to function within those environments. The principles are:

1. **Equitable Use:** A home or product should be designed to be useful and marketable to people of diverse abilities. The product can be used equally well by all users, and does not segregate or stigmatize any users. An example of equitable use is a motion-sensitive automatic door.
2. **Flexibility in Use:** A product's design should accommodate a wide range of individual preferences and abilities. Such products provide choice in method of use, and can adapt to different-handedness, different paces and methods of use. An example of flexible use would be an ATM machine that provides information through visual, tactile, and audible channels.
3. **Simple and Intuitive Use:** Products should be easy to use and understand, regardless of prior skill, knowledge or experience. Products should eliminate unnecessary complexity, be intuitive in use, not depend on high linguistic or cognitive skills, and provide simple feedback during use. An example would be an instruction manual using drawings with little or no text.
4. **Perceptible Information:** The design should communicate necessary information effectively, regardless of ambient conditions or the user's sensory abilities. A product should present multiple means of communication, and be as easy to perceive as possible. An example would be a

thermostat with large, easily visible numbers, and provide alternate means of data perception.

5. **Tolerance for Error:** Products should minimize hazards and adverse consequences of accidental or unintended actions. Products should not create dangers if accidentally misused, provide clear warnings for misuse, and provide failsafe features. Some examples are computer programs with simple "undo" features and keys that can be inserted into locks with either side up.
6. **Low Physical Effort:** Products should be able to be used efficiently and comfortably with a minimum of fatigue. The product should allow the user to maintain a neutral body position, use reasonable operating force, and minimize repetitive action and sustained effort. An example would be a levered door handle or faucet, or touch-operated lamps with no switches.
7. **Size and Space for Approach and Use:** Products should have appropriate size and space provided for approach, reach, and manipulation, regardless of the user's body size, posture or mobility. Products should provide clear lines of sight to all controls, whether a person is seated or standing, be usable with a comfortable reach whether seated or standing, accommodate different hand grips, and provide adequate space for assistive devices. An example is appliances with front controls and clear floor space around them.

There are also important distinctions between the concepts of Accessible Design, Adaptable Design, and Universal Design. According to the National Institute on Disability and Rehabilitation Research, Accessible Design for a dwelling means that the housing unit meets legal requirements that have been defined for accessible housing. Federal fair housing law requires that all multifamily dwellings built after 1992 have certain features of accessible design: accessible parking, an accessible route from parking to the entranceway, an accessible entrance, accessible paths through the major living areas, especially kitchen and bathroom, switches and outlets placed at accessible heights, and reinforced walls in bathrooms to allow for the installation of grab bars. Under Vermont law, 20 V.S.A. §2907, all residential dwellings built after 2003 must meet a "visitability" standard, including one exterior door and all interior doors wide enough to allow wheelchair access and free of threshold barriers, utility controls and outlets at accessible heights, and reinforced bathroom walls. Any dwelling that does not meet these requirements would not be considered accessible. Accessible design might also refer, in the context of public buildings, to heights of countertops, sufficient level space to stop and turn a wheelchair, knee space under counters and sinks, specific types of levers and handles, and grab bars in public restrooms.

Adaptable Design refers to housing and other environments that are designed without direct architectural barriers that would prevent access to persons with disabilities. An adaptable design may include features that

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printing or publishing a statement "with respect to the sale or rental of a dwelling or other real estate that indicates any preference, limitation or discrimination based" on protected categories. Under this provision of the law, then, a municipal official who makes a statement of discriminatory intent could be liable for a fair housing violation. For example, if a town zoning administrator made a statement, spoken or written, that he did not want a proposed low-income housing development to go forward because "it would bring too many welfare mothers into town" could expose the town to a claim of housing discrimination.

The application of this law becomes more difficult as it relates to town meetings and other public situations, because of constitutional free speech protections. If the same proposed low-income housing development of the previous example were being discussed at an annual town meeting, or at a public meeting of the zoning board, and a citizen of the town made the same comment about welfare mothers, then any claim of housing discrimination based on a discriminatory statement would have to be weighed against the rights of the citizen to free political speech. If, however, the same statement was made in the same meeting by a town official, then it would be possible to argue that the speech is no longer protected, in that it would constitute a public official advocating a violation of the law. If, in a similar situation, a number of persons at a town meeting objected to a low-income development, and made discriminatory statements in that debate, then a developer might be able to bring a fair housing charge against the town. If, however, the town could provide a legitimate, non-discriminatory reason for opposing the low-income development, then the developer would, in order to prevail in a discrimination claim, have to show by a preponderance of the evidence that the real reason for the refusal to allow the development was discriminatory.

In sum, then, while municipal governments are not the most common targets of housing discrimination complaints, town and city officials should be aware of the impact of fair housing law on zoning and other decisions made by the town, and in ensuring that the town provide equal access to its services for all persons.



VERMONT
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stated that the town had, in effect, built a moat around itself and pulled up the drawbridge, in order to keep low-income families from living in the town. The Court also observed that, while town zoning allowed the placement of manufactured housing, that such housing did not substitute for affordable rental housing in multifamily developments.

As a remedy, the Court ruled that the Great Bridge proposed development was not in violation of the town's zoning ordinance, because the provisions of the ordinance that the development supposedly violated were themselves unlawful. The Court ordered the town's Planning Board to review the proposal in light of the Court's ruling. The Court also ordered the town to adopt revised zoning ordinances to comply with New Hampshire law.

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may present barriers to a person with a disability, but is created in such a way that those features may be easily adjusted to remove that barrier. Such design might include reinforced walls to allow installation of grab bars, and counter tops and closet rods with adjustable height settings.

Universal Design refers to dwellings, environments and products that may be used equally by most people, regardless of their level of ability. A round door knob may not be usable by a person with a physical impairment, but a lever-controlled door handle is usable by many persons with disabilities. Obviously, some types of products and environments may simply not be able to be used by some persons with certain disabilities, but the principles of universal design encourage the widest possible usability by a maximum of individuals.

Some practical suggestions for creating more accessible housing design include single-level design for dwellings, with no stairs; entrances without stairs and with beveled thresholds; sufficiently wide doorways and hallways; use of lever-style doors handles; controls within easy reach and using easily readable numbers; use of hard flooring or low-pile carpeting; sinks with side faucets and flexible hoses; lower-level pull-out storage; lower or adjustable-level work surfaces; bathrooms near bedrooms, with sufficient clear floor space; levered faucets; and non-slip bathroom surfaces.

Clearly, given the wide range of ability levels in the population, not all housing units and environments can be made fully accessible for all persons at all times. However, by incorporating the principles of universal design into future housing design and construction, the range of possible options for persons looking for livable housing will be greatly expanded, and along with those options comes the greater possibility for independent living for all citizens.



THE STATE OF FAIR HOUSING—HUD'S ANNUAL REPORT

The following is an Excerpt from the U.S. Department of Housing and Urban Development's 2005 report on Fair Housing. To view the whole report on line, go to: <http://www.hud.gov/utilities/intercept.cfm?offices/fheo/library/FY2005AnnualReport.pdf>.

In FY 2005, fair housing agencies received roughly the same number of complaints as they did in FY 2004, for a combined 9,254 complaints, with FHAP agencies investigating over 70 percent of those. HUD and FHAP agencies had witnessed a 13 percent increase in housing discrimination complaints in FY 2004, ending that fiscal year with 9,187 complaints. HUD and FHAP agencies most often received complaints alleging disability discrimination, which for the first time surpassed race discrimination as the most common allegation in complaints. Disability discrimination complaints accounted for about 41 percent of the complaints filed with HUD and FHAP agencies.

Although disability was the most common basis for discrimination in complaints filed with HUD and FHAP agencies in FY 2005, a recent HUD study suggests that those complaints represent only a small fraction of incidents of disability discrimination in the housing market. In July 2005, HUD issued the fourth phase of its Housing Discrimination Study—Discrimination Against Persons with Disabilities: Barriers At Every Step. The study examined the Chicago area rental market and found that hearing-impaired persons, using a telephone-operator relay to search for rental housing, experienced consistent adverse treatment 49.5 percent of the time. The study also found that mobility-impaired persons using wheelchairs experienced consistent adverse treatment 32.3 percent of the time when they visited rental properties.

The number of complaints alleging racial or ethnic discrimination in the housing market also account for far less than the actual number of discriminatory acts suggested by recent studies. A series of national studies on the experiences of African Americans, Hispanics, and Asians and Pacific Islanders in the housing market has found evidence of consistent adverse treatment in roughly one of every five interactions with a sales or rental agent. A study on the experience of Native Americans in the rental market in three states found that they experience consistent adverse treatment in 28.5 percent of their interactions with a rental agent, on average.

In addition to presenting information on the level of racial, ethnic, or disability discrimination, recent HUD studies show that discrimination is often subtle. Much of the consistent adverse treatment reported in the aforementioned studies was uncovered using paired-testing—a method by which two persons, differing only on a single characteristic that is being tested (e.g., race), independently inquire about an advertised housing unit. Each of the testers independently records his or her experience, and any difference in treatment is often only apparent when an analyst compares the resulting information. Thus, the disparity between the number of complaints filed with HUD and FHAP agencies and the frequency of discrimination found in housing discrimination studies indicates that victims are often unaware that they have been discriminated against and suggests that discrimination is greatly underreported.

In January 2005, HUD established the Office of Systemic Investigations (OSI) to investigate discriminatory practices that are not reported by individuals. OSI uses methods such as paired-testing to investigate housing providers or other

entities that it suspects of engaging in unlawful discrimination. OSI also responds to allegations of discriminatory housing practices that an initial investigation suggests may have a nationwide impact or otherwise affect a large number of persons. OSI is thereby able to help persons that may not be aware that they have been victims of discrimination, as well as prevent future discriminatory acts by addressing the systemic practices behind an individual complaint of discrimination.

In FY 2005, HUD also created the FHIP Performance-Based Funding Component (PBFC) to help support private organizations in conducting long-term investigations of the housing or lending market for evidence of systemic discrimination. The PBFC offers 3-year grants of up to \$275,000 per year for private organizations with a proven record of developing complaints of systemic discrimination in the housing or lending industry and then pursuing them through the HUD complaint process or in court. The 13 organizations that received PBFC grants are part of the 104 groups in 37 states and the District of Columbia that were awarded FHIP funding in FY 2005.

In the fall of 2005, HUD came to the aid of the hundreds of thousands of Gulf Coast residents displaced by Hurricanes Katrina and Rita. HUD's participation in the recovery effort included deploying staff to the region to ensure that unlawful discrimination did not prevent displaced individuals from finding appropriate temporary or permanent housing. To do this, HUD conducted education and outreach and intervened on behalf of people facing discrimination to help them obtain housing immediately. For example, HUD staff helped make a mobile home community open to families with children after receiving a complaint that the park was unlawfully excluding them.

In the months following the storms, HUD and organizations that HUD funds through the Fair Housing Initiatives Program (FHIP) encouraged displaced individuals throughout the country to report discrimination to HUD or state and local government agencies under the Fair Housing Assistance Program (FHAP). HUD and FHIP groups appeared on radio shows, placed billboard and newspaper ads, and launched a nationwide advertising campaign to inform evacuees of their fair housing rights and how to file a housing discrimination complaint. HUD and FHIP personnel also distributed fair housing flyers at Federal Emergency Management Agency (FEMA) Disaster Recovery Centers (DRC) and shelters and answered questions from DRC and shelter workers and displaced individuals on housing discrimination.

The massive number of displaced individuals led to HUD efforts to expand the number of temporary and permanent housing opportunities. HUD opened up thousands of housing opportunities for those left homeless by the hurricanes by modifying its policy for senior housing developments. On November 14, 2005, HUD issued guidance that allowed thousands of senior housing developments throughout the country to make housing available to evacuees from Hurricanes Katrina and Rita who are under the age of 55 and retain the developments' privilege under the Fair Housing Act to otherwise restrict housing to older persons. HUD expects this exemption to help alleviate the housing crunch in areas of the country where a large number of individuals displaced by the hurricanes have relocated.

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AROUND THE NATION

The following press releases originally appeared in the National Fair Housing Advocate Online. You may get more information at www.fairhousing.com.

➤ Craigslist Sued by Chicago Firm

On February 6, 2006 the Chicago Lawyers' Committee For Civil Rights Under Law, a non profit civil rights organization, filed a lawsuit in federal court against the website craigslist (www.craigslist.com) for publishing housing advertisements which exclude prospective tenants on the basis of race, gender, family status, marital status, national origin, and religion. From July 2005 through the present, craigslist published over 200 such ads from metropolitan Chicago, with language such as "no minorities," "African Americans and Arabians tend to clash with me so that won't work out," "Ladies please rent from me," "Requirements: Clean Godly Christian Male," "Will allow only single occupancy," and "No children." The Chicago Lawyers' Committee For Civil Rights Under Law is represented by Laurie Wardell and Elyssa Winslow of the Lawyers' Committee for Civil Rights Under Law and pro bono attorneys Stephen D. Libowsky and Louis Crisostomo of Howrey LLP. "Discriminatory housing advertisements contaminate the housing market, stigmatize the people who are discouraged or excluded from housing, and mislead people into thinking that it is normal and acceptable to select tenants on the basis of race, gender, religion or family status," said Laurie Wardell. "Discriminatory housing advertisements reduce the housing available to persons of color and to persons in other protected groups. Where we live determines our job opportunities, our neighbors and friends and communities, our physical safety and the quality of our kids' education. Housing discrimination injures us all," said Elyssa Winslow.

➤ National Fair Housing Alliance Sues New York Real Estate Company

The National Fair Housing Alliance (NFHA) announced the filing of a housing discrimination complaint against Peter J. Riolo Real Estate, located in Westchester County, NY. This complaint, filed with the U.S. Department of Housing and Urban Development (HUD) and the Westchester County Human Rights Commission, results from NFHA's sales testing in the County. The investigation revealed a dramatic pattern of discriminatory comments by real estate agents. Agents used the ethnicity of the public schools to steer White families away from Tarrytown. Racial steering is not only unethical — it's illegal. Agents of Peter J. Riolo Real Estate violated the federal and local Fair Housing Acts when they repeatedly recommended homes and school districts to potential homebuyers based on their race or national origin. Agents made negative comments to White homebuyers about neighborhoods and school districts with high percentages of Latino and African-American residents/students. Tarrytown schools were referred to as "bad" when the agents were discussing schools with Whites; however, Latinos and African-American buyers were shown homes in the very school districts that Whites were told to avoid. In fact, Latino homeseekers were encouraged to consider homes in Tarrytown and no comments were made about the quality of the schools. "Illegal sales steering keeps neighborhoods segregated," says Shanna L. Smith, President and CEO of the National Fair Housing Alliance. "Agents limit buyer choice through negative comments or by simply never showing homes to people in communities in which their race or national origin does not predominate. Homebuyers trust that their agents are showing them all available homes in their price range, but our investigation shows that this is not always the case."

➤ Connecticut Religion Discrimination Claim Settled

When Susha and Sholom Alperowitz of New Haven, CT filed a complaint with the Connecticut Commission On Human Rights & Opportunities in June/2003 against the Fountainwood Condominium Association and its property manager—Jeremy Almarode of Imagineers, LLC—they were just hoping to be left alone to be allowed to follow their

religion as Orthodox Jews. As practicing members of the Jewish faith, each year the Alperowitizes erect a temporary shelter on the balcony outside their unit in observance of "Sukkoth"—a significant holiday on the Jewish calendar. This structure known as a "sukkah" is symbolic of the period of time in which the Jewish people lived in temporary dwellings when they left Egypt and wandered 40 years in the desert. The Jewish religion mandates that the family eat all their meals under the sukkah for the length of Sukkoth (8-12 days during October). Once the holiday is over, the temporary shelter is completely removed and stored away till next year. The problem was, however, that each year the condo association property manager and the condo Board of Directors insisted that the erection of the sukkah was in violation of the condo by-laws regarding outside decorations; and each year they would assess the Alperowitizes with a fine. Believing that they were not in violation of the by-laws, the Alperowitizes refused to pay the fines. As a result, they were then charged late charges on top of the fines and these would be followed with frequent dunning notices demanding payment. The Alperowitizes filed a complaint with the Connecticut Commission On Human Rights & Opportunities alleging that the actions of the property manager and the condo association constituted harassment and an act of housing discrimination which interfered with the practicing of their religious beliefs. In April 2004 the Connecticut Commission made a cause finding following a full investigation of the facts. They concluded, "there is sufficient evidence to demonstrate the Respondents [Fountainwood Condominium Association & property manager Jeremy Almarode] have discriminatorily applied their rules and regulations which have an effect that disparately impacts Jewish residents, those who commemorate the Sukkoth holiday." On October 17, 2005 a Settlement Agreement was reached by the parties. The terms of the settlement were as follows: 1. Fountainwood Condominium Association shall issue a "letter of apology" to the Alperowitizes. 2. Fountainwood and Imagineers shall rescind all fines and related late charges. 3. Fountainwood shall permanently change the Rules and Regulations to permit the placement of a sukkah on a condo unit's patio, etc. in observance of Sukkoth. 4. Fountainwood shall pay \$5,000 to the Alperowitizes for compensation. 5. Fountainwood shall pay attorney's fees in the amount of \$17,500 to Attorney Robert Kor. 6. Imagineers shall pay \$5,000 to the Alperowitizes. 7. Fountainwood Board of Directors shall attend a fair housing training seminar and assume the costs for the training.

➤ NFHA Annual Fair Housing Report

The National Fair Housing Alliance (NFHA) released its annual trends report, which paints a comprehensive and alarming picture of how illegal housing practices by real estate companies perpetuate residential segregation in America. The report details an egregiously high incidence of racial steering across the United States even now, almost forty years after the passage of the federal Fair Housing Act. NFHA's 2006 Fair Housing Trends Report describes its multi-year real estate sales testing program in twelve metropolitan areas, which revealed striking patterns of racial steering nationwide through hundreds of tests. In fact, NFHA's tests found racial steering to be the norm, with a steering rate of 87 percent, when testers were given an opportunity to see homes. Whites were limited to viewing homes in predominately White neighborhoods and discouraged from visiting homes in interracial neighborhoods. African-Americans and Latinos lost their right to see homes of their choosing across a wide spectrum of White communities. They were limited to seeing homes in neighborhoods in which their race or national origin predominated. In nearly 20 percent of cases, African-American and Latino homeseekers had appointments scheduled to see homes, but agents simply never showed up and then failed to answer their cell phones when testers called to inquire about their absence. Many other African-American and Latino testers received very limited service in comparison to White testers. Housing discrimination is widespread and systemic: NFHA estimates that more than 3.7 million violations of the Fair Housing Act occur annually, more than 99% of them going unreported.

HUD also helped increase temporary housing opportunities for persons with disabilities who were displaced by the hurricanes. HUD met with FEMA representatives and other government officials to educate them on federal accessibility requirements and the kinds of modifications needed to make trailers accessible for persons with mobility impairments. As a result, FEMA agreed to make at least 14 percent of manufactured housing accessible to persons with disabilities by installing a ramp or making other reasonable modifications.

In addition, HUD is helping to make sure that persons with disabilities are able to return to the region by taking steps to ensure that apartment and condominium buildings that were destroyed by the hurricanes are rebuilt in a manner that is accessible to persons with disabilities. In November 2005, the HUD-funded Fair Housing Accessibility FIRST program trained approximately 60 architects, builders, state code officials, and FEMA representatives in the Gulf Coast region on the accessibility requirements of the Fair Housing Act. The Department of Justice joined the sessions, providing training on the accessibility requirements under Section 504 of the Rehabilitation Act for federally funded housing.

Finally, HUD's Assistant Secretary for Fair Housing and Equal Opportunity, Kim Kendrick, has pledged that the fair housing rights of hurricane evacuees will remain a major focus of fair housing programs in FY 2006. Within days of her confirmation as Assistant Secretary on October 7, 2005, Assistant Secretary Kendrick issued a letter to remind the housing industry that it is unlawful to deny an individual access to housing on the basis of race, color, national origin, religion, sex, familial status, or disability. Assistant Secretary Kendrick pledged swift enforcement action when evidence arises of unlawful discrimination.

The following is a description of HUD initiatives during FY 2005 and the months following the Gulf Coast hurricanes that helped HUD meet the fair housing needs of displaced individuals, expand HUD's capacity for enforcing fair housing laws, and raise public awareness of fair housing.

Two days before Hurricane Katrina made landfall, Secretary Jackson assembled a team that would be ready to respond to housing needs in the aftermath of the hurricane. That team, called the HUD Recovery and Response Center, drew on employees from all HUD program offices, including HUD's Office of Fair Housing and Equal Opportunity.

Immediately after Hurricane Katrina, in anticipation of possible housing discrimination as large populations of African American and other minority residents relocated to surrounding communities, FHEO dispatched staff to Baton Rouge to work with the Federal Emergency Management Agency (FEMA) in the Disaster Recovery Centers.

Since September, FHEO has maintained a staff presence of three to five persons in Baton Rouge. Also, FHEO increased its presence in Mississippi and maintained its Houston office, where the greatest number of hurricane evacuees relocated. FHEO staff assisted evacuees in their search for housing and thereby helped to prevent discrimination. For example, staff advised landlords that they could not discriminate against families with children and provided guidance to evacuees on obtaining accessible housing.

FHEO staff also worked closely with the fair housing and disability-rights advocacy organizations in the Gulf Coast Region. HUD funds many of these groups through FHIP. To aid these Gulf Coast fair housing groups in their post-hurricane efforts, HUD allocated an additional \$1.2 million for outreach to evacuees and investigation of discrimination complaints.

FAIR HOUSING NEWS FROM HUD

Fair Housing Month

This past April marked the 38th annual celebration of Fair Housing Month. This year's theme was: "Fair Housing: It's Not An Option—It's the Law." Fair Housing Month began with an opening ceremony at HUD Headquarters on April 4th. Program highlights included HUD Secretary Alphonso Jackson as the keynote speaker, and the unveiling of a pictorial exhibit, *America's Journey to the Fair Housing Act*. In addition, the program included a first person account of a \$1 million dollar settlement of a disability discrimination lawsuit brought against a San Francisco landlord who refused a tenant's reasonable accommodation request. Vermont Governor James Douglas also issued a proclamation naming April as Fair Housing Month in Vermont.

HUD Charges Michigan Apartment Complex with Violation of Fair Housing Act

The property manager, management company, owner and general partner at the Fairway Trails Apartments in Ypsilanti, Michigan have been charged in violation of the Fair Housing Act by the U.S. Department of Housing and Urban Development. HUD believes that the respondents retaliated against a tenant, when they evicted him after he won a reasonable accommodation request against the

apartment complex. For further details, you may read the HUD press release at <http://www.hud.gov/news/release.cfm?content=pr06-032.cfm>.

HUD and the Ad Council Launch National Campaign to Fight Evacuee Housing Discrimination

HUD Secretary Alphonso Jackson and the Ad Council have launched a national campaign designed to increase recognition of fair housing rights and reporting of housing discrimination by making hurricane evacuees aware of housing laws. You may view the ads at the HUD Fair Housing and Equal Opportunity Web Site, <http://www.hud.gov/offices/fheo/index.cfm>.

2006 Fair Housing Policy Conference

HUD announces the 2006 National Fair Housing Policy Conference, which will take place in Anaheim, California, June 27-29, 2006. The conference will cover national issues relevant to fair housing policy and enforcement, and is aimed at agency directors, managers, commissioners and attorneys. Several staff and commissioners of the Vermont Human Rights Commission will attend the conference.

CONTACT US!

The Vermont Fair Housing News is published twice annually, in the spring and fall.
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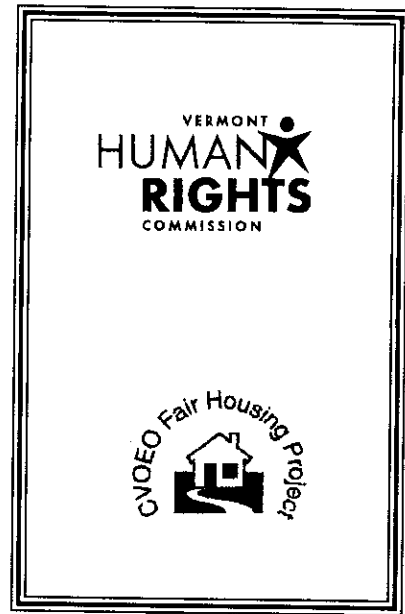
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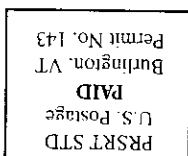
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